IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 24566 of 2003

Between:

R.V.Subramanyam, s/o late Suryanarayana Murthy,
r/o D.No.15/417, Venkataramapuram, III Floor, Nellore.

..... PETITIONER

AND

1 The Chairman and Managing Director, APTRANSCO, Hyderabad.
2 Southern Power Distribution, Tirupati, Chittoor District rep., by its Managing

Director.
3 Superintendent Engineer (Operation), SPDCL, Vidyuth Bhavan, Nellore-5.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ, or direction declaring the order of the 3rd respondent passed in Memo No. SE(O)MLR.PRS.U1.D.No.470/03 dated 30-10-2003 as illegal arbitrary and is in violation of principles of natural justice.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: MR.S.RAVINDRANATH FOR R

The Court made the following :

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ORDER:

Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner, who has been employed with the respondents herein, filed this Writ Petition, inter alia, seeking to assail the impugned order dated 30-10-2003 by way of this Writ Petition, whereunder the respondents sought to rectify the pay anomaly and ultimately canceling the pay, which was being given to the petitioner.

The case of the petitioner is that in pursuance of the proceedings dated 29-06-1996, the respondents have issued the proceedings in respect of the amounts to which he is entitled to on fixation of the pay. However, now under the impugned order the same is sought to be cancelled without any justification and especially without any notice or opportunity being provided to the petitioner. Hence, the Writ Petition.

The learned Counsel for the respondents sought to sustain the impugned order on the ground that the initial proceedings dated 29-06-1996 themselves contemplate such eventuality of correcting, if found any errors, and therefore, the petitioner cannot make any claim at this stage.

Having heard the Counsel and on perusal of the material, it is seen that the impugned orders are admittedly without any prior notice or opportunity to the petitioner. The petitioner has been benefiting under the orders dated 29-06-1996. No doubt, the petitioner was not heard before passing of the impugned orders. It is now well established that especially where a benefit already conferred to an individual, though on a wrong side, the same cannot be taken away without providing any opportunity.

Having regard to the above, the Writ Petition is allowed. The impugned order dated

30-10-2003 is set-aside to the extent of petitioner only. It shall however be open for the respondents to pass fresh orders after giving notice and opportunity to the petitioner. No costs.

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B.PRAKASH RAO, J.

Dated 07-12-2004.

SKMR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Tuesday, the Seventh Day of December Two Thousand and Four.

..... REGISTRAR

To

1 The Chairman and Managing Director, A.P.TRANSCO, Hyderabad.
2 The Managing Director, Southern Power Distribution, Tirupati, Chittoor

District.
3 The Superintendent Engineer (Operation), SPDCL, Vidyuth Bhavan,

Nellore-5.

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